

# Notice of Allowability

Application No.

10/526,411

Examiner

Brent Page

Applicant(s)

KLEBSATTEL ET AL.

Art Unit

1638

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment filed 5/30/2007.
2. ☒ The allowed claim(s) is/are 1, 14, 16-21, 23 and 26-30.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date 05/30/2007
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

Art Unit: 1638

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

IN THE CLAIMS:

Claims 1, 14, 16, 19, and 21 were amended as follows:

Claim 1 (Currently amended) A method for the targeted transgenic expression of nucleic acid sequences in nonreproductive floral tissues of plants, comprising the following steps,

- I. introducing a transgenic expression cassette into plant cells, wherein the transgenic expression cassette comprises at least the following elements
  - a) at least one promoter sequence selected from [the group of sequences consisting of]
    - [i) the]a promoter sequence comprising the polynucleotide of SEQ ID NO: 1; or
    - [ii) a promoter sequence having at least 70% homology to SEQ ID NO: 1 which targets the expression of a nucleic acid sequence in nonreproductive floral tissues of plants;]
    - [iii) a promoter sequence [having at least 95% homology over at least 500 base pairs]comprising a fragment of

Art Unit: 1638

SEQ ID NO: 1, wherein [the promoter]said fragment  
targets expression of a nucleic acid sequence in  
nonreproductive floral tissues of plants; [and]

- [iv) a promoter sequence having at least 1000 base pairs  
of the 3' end of SEQ ID NO: 1, wherein the promoter  
targets expression of a nucleic acid sequence in  
nonreproductive floral tissues of plants;]

and

- b) at least one further nucleic acid sequence,

wherein the at least one promoter sequence and the at least one further  
nucleic acid sequence are functionally linked together, and the further nucleic acid  
sequence is heterologous in relation to the promoter sequence, [and]

- II. selecting transgenic cells which comprise said expression cassette  
stably integrated into the genome,

and

- III. regenerating complete plants from said transgenic cells, wherein  
the further nucleic acid sequence is expressed in nonreproductive  
floral tissues.---

---Claim 14 (Currently amended) A transgenic expression cassette for the  
targeted transgenic expression of nucleic acid sequences in nonreproductive floral  
tissues of plants, comprising

Art Unit: 1638

a) at least one promoter sequence selected from [the group of sequences consisting of]

- [i) the]a promoter sequence comprising the polynucleotide of SEQ ID NO: 1; or
- [ii) a promoter sequence having at least 70% homology to SEQ ID NO: 1 which targets the expression of a nucleic acid sequence in nonreproductive floral tissues of plants;]
- [iii)] a promoter sequence [having at least 95% homology over at least 500 base pairs]comprising a fragment of SEQ ID NO: 1, wherein [the promoter]said fragment targets expression of a nucleic acid sequence in nonreproductive floral tissues of plants; [and]
- [iv) a promoter sequence having at least 1000 base pairs of the 3' end of SEQ ID NO: 1, wherein the promoter targets expression of a nucleic acid sequence in nonreproductive floral tissues of plants;]

and

b) at least one further nucleic acid sequence,

wherein the at least one promoter sequence and the at least one further nucleic acid sequence are functionally linked together, and the further nucleic acid sequence is heterologous in relation to the promoter sequence, and wherein

Art Unit: 1638

the promoter targets expression of the further nucleic acid sequence in nonreproductive floral tissues of plants.---

In Claim 16, line 1, ---wherein--- replaced the word "where".

In Claim 19, line 3, ---Accession Number--- replaced "Acc.-No."

Claim 21 (Currently amended) A transgenic bacteria, [or ]plant, [or ]cells, cell cultures, parts, tissues, organs or propagation material [~~derived~~]obtained therefrom, transformed with the expression cassette of claim 14.

New Claims 28-30 were added as follows:

Claim 28 (New) A transgenic bacteria, plant, cells, cell cultures, parts, tissues, organs or propagation material obtained therefrom, transformed with the vector of claim 20.

Claim 29 (New) The method of claim 1, wherein the fragment of SEQ ID NO: 1 comprises nucleotides 1007 to 2039 of SEQ ID NO: 1.

Claim 30 (New) The transgenic expression cassette of claim 14, wherein the fragment of SEQ ID NO: 1 comprises nucleotides 1007 to 2039 of SEQ ID NO: 1.

Authorization for this examiner's amendment was given in a telephone interview with Roberte Makowski on 08/17/2007.

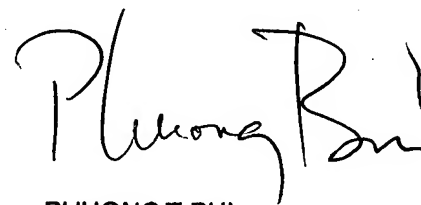
Art Unit: 1638

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brent Page whose telephone number is (571)-272-5914. The examiner can normally be reached on Monday-Friday 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anne Marie Grunberg can be reached on (571)-272-0975. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Brent T Page

A handwritten signature in black ink, appearing to read 'Phuong Bui', with a stylized flourish at the end.

PHUONG T. BUI  
PRIMARY EXAMINER